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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,172	10/16/2000	Lawrence J. Andrews	WAB 00266	1113

7590

12/01/2003

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EXAMINER

PICKARD, ALISON K

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 12/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/687,172

Applicant(s)

ANDREWS, LAWRENCE J.

Examiner

Alison K. Pickard

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 10 and 12-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 10 and 12-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. NOTE: claims 7-9 and 11 were cancelled in an Amendment received 9-3-02 (paper #5). However, the current amendment (paper #11) presents them as 'pending'. This is improper. If applicant wishes these claims to be pending, they should be submitted as new claims. Therefore, claims 7-9 and 11 are considered cancelled and have not been treated in this action.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 10, and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Fiondella (5,337,787).

Fiondella discloses a device for securing a sealing member in a predetermined position comprising a positioning element and retaining element 40. The retaining element is integrally formed as an annulus on a first surface of the positioning element (see Figure 2). The retaining element has a bevel with a first end and second end. The retaining and positioning elements have equal inside diameters. The outside diameter (or the first end of the bevel) of the retaining element is smaller than the positioning element's and a radius is disposed tangent to the first end of the bevel and first surface. The bevel and first surface form a ledge that extends from a lower portion of the bevel to an outer edge of the surface. Fiondella discloses two positioning elements and two retaining elements. A spacer means (plural posts) is integrally provided between the two positioning and retaining elements.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fiondella.

Fiondella does not disclose that the number of posts is four. Using four posts is considered a design choice. See *In re Harza* 124 USPQ 378 (CCPA 1960). Further, it is known that a valve cage can have four posts as evidenced by Forster '540. Therefore it would have been obvious for one of ordinary skill in the art at the time the invention was made to use four posts as a matter of choice in design.

6. Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art in view of Fiondella.

Claims 16-21 are considered Jepson claims because of the phrase "the improvement comprising." Therefore, everything before that phrase is considered admitted prior art. Thus, Applicant has disclosed a known combination of a plurality of spool valve shells with a pressure release valve having a high pressure port, low pressure port, spool valve, check valve, and a reset spool. Applicant has not disclosed spool valve shells comprising two positioning element, two retaining elements, a spacer means, and a sealing member. Fiondella teaches spool valve shells for use with valves, spool and ports. Fiondella teaches a sealing member (o-ring) 36 disposed between two opposing positioning elements of two adjacent valve shells 34. Each shell has two

Art Unit: 3676

positioning elements, two retaining elements 40 and a spacer means. The retaining and positioning elements have equal inside diameters. The outside diameter of the retaining element is smaller than the positioning element's. Fiondella teaches that the shells/cages provide proper fluid sealing between ports in a valve body (col. 2, lines 56-59). Fiondella teaches that the retaining elements assist in the alignment and proper positioning of the cages and o-rings (col. 3, lines 24-40). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the shells disclosed by the applicant with the shells taught by Fiondella to provide proper positioning and alignment of the cages and seals to ensure proper fluid sealing.

7. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art in view of Fiondella as applied to claim 20 above, and further in view of Applicant's admitted prior art (spec. page 1, lines 19-21).

Fiondella discloses a resilient seal, but does not specify the material. Applicant admits that using nitrile material for a seal provides a leak-proof seal. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to make the seal of nitrile to provide a leak-proof seal.

Response to Arguments

8. Applicant's arguments filed 9-3-03 have been fully considered but they are not persuasive and are considered moot in view of the new grounds of rejection.

Fiondella discloses and teaches that it is known to use cages with spool valves that comprise positioning elements, retaining element, and spacers. The retaining elements have bevels (see Fig. 2) and form a ledge with the surface of the positioning element. Regarding

Art Unit: 3676

claim 10, Forster still reads on this claim (and dependents) because the ledge has not been defined as in claims 1 and 16.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alison K. Pickard whose telephone number is 703-305-0882. The examiner can normally be reached on M-F (9-6:30), with alternate Friday's off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Application/Control Number: 09/687,172

Page 6

Art Unit: 3676

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1113.


Alison K. Pickard
Examiner
Art Unit 3676

AP